

BEFORE THE
TENNESSEE STATE BOARD OF EQUALIZATION

<i>In Re:</i>	Richard E., III & Sandra Charlton)	
	Ward 45, Block 47, Parcel 2)	
	Residential Property)	Shelby County
	Tax year 2005)	

INITIAL DECISION AND ORDER

Statement of the Case

The Shelby County Board of Equalization ("county board") has valued the subject property for tax purposes as follows:

LAND VALUE	IMPROVEMENT VALUE	TOTAL VALUE	ASSESSMENT
\$383,800	\$202,300	\$586,100	\$146,525

On November 14, 2005, the property owners filed an appeal with the State Board of Equalization ("State Board").

The undersigned administrative judge conducted a hearing of this matter on December 14, 2006 in Memphis. In attendance at the hearing were the appellant Richard E. Charlton, Esq. and Shelby County Property Assessor's representative Jonathan Jackson.

Findings of Fact and Conclusions of Law

The property in question is a single-family residence located at 2725 Lombardy, near the Chickasaw Gardens subdivision of Memphis. This one-story frame structure, originally built in 1938, sits on a 0.62-acre lot. A sizable detached garage (with living quarters) on the premises was recently enclosed.

In the 2005 county-wide reappraisal, the Assessor valued the subject property at \$586,100. Mr. Charlton appealed to the county board, which referred his complaint to an appointee for preliminary review. Based apparently on an analysis of the 2002-04 comparative sales information compiled in Exhibit #1, the hearing officer recommended a reduced appraisal of \$412,900 (or \$184.17 per square foot of living area). But the Assessor's office took exception to that figure; and when the taxpayer did not appear at the scheduled hearing on September 27, 2005 before the full county board, it affirmed the Assessor's value. This appeal to the State Board ensued.¹

The appellant contended that the subject property was not worth more than \$375,000. The average sale price of the 50 homes listed in Exhibit #1, he stressed, was only \$153 per

¹In a letter to the State Board dated March 14, 2006, Mr. Charlton stated that he had not received notice of the county board hearing until September 28, 2005. He testified to the same effect before the administrative judge.

square foot. In his opinion, the most comparable of those houses were 2775 and 2709 Lombardy, which sold for \$152 and \$141 per square foot, respectively.

While conceding that the current appraisal was excessive, the Assessor's representative did not concur with the appellant's estimate of value. The (unadjusted) sale prices for Mr. Jackson's five comparables ranged as low as \$349,500; however, he noted that the subject property included more acreage and a superior outbuilding.

Tenn. Code Ann. section 67-5-601(a) provides (in relevant part) that "[t]he value of all property shall be ascertained from the evidence of its sound, intrinsic and immediate value, for purposes of sale between a willing seller and a willing buyer without consideration of speculative values...."

Since the taxpayers seek to change the present valuation of the subject property, they have the burden of proof in this administrative proceeding. State Board Rule 0600-1-.11(1).

Concerning the proper reconciliation of values indicated in a sales comparison approach, an authoritative textbook states that:

Ideally, the value estimates will be within a narrow range. **In selecting the single value estimate, the assessor must never average the results.** Rather, the process requires the assessor to review the adjustments made and place the greatest reliance on the most comparable property. [Emphasis added.]

International Association of Assessing Officers, Property Assessment Valuation (2nd ed. 1996), pp. 123-24.

In the instant case, neither party undertook to adjust sale prices to account for significant differences between the selected comparables and the subject property, or for the periods of time between the comparable sale and reappraisal dates. Hence the administrative judge must interpret the market data in the record on the basis of generally accepted appraisal principles.

The sale of 2709 Lombardy in August, 2002 – over two years prior to the reappraisal date – cannot be accorded significant evidentiary weight because that two-story house was much larger than the subject. With respect to otherwise similar properties, "[s]ale price per square foot usually decreases as square feet increase." International Association of Assessing Officers, Property Appraisal and Assessment Administration (1990), p. 162. That would seemingly leave nearby 2775 and 2749 Lombardy as the best available comparables. Both of those homes were somewhat older and larger than the subject house, with smaller lots and less desirable extras. It is reasonable to infer, then, that the appellant's residence would have brought even more on January 1, 2005 than the \$180.45 per square foot for which the higher-priced 2749 Lombardy sold in September, 2003.

In the opinion of the administrative judge, the above considerations tend to support the county board hearing officer's recommended value as the most appropriate resolution of this dispute.

Order

It is, therefore, ORDERED that the following values be adopted for tax year 2005:

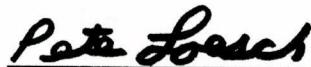
LAND VALUE	IMPROVEMENT VALUE	TOTAL VALUE	ASSESSMENT
\$383,800	\$29,100	\$412,900	\$103,225

Pursuant to the Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-301—325, Tenn. Code Ann. § 67-5-1501, and the Rules of Contested Case Procedure of the State Board of Equalization, the parties are advised of the following remedies:

1. A party may appeal this decision and order to the Assessment Appeals Commission pursuant to Tenn. Code Ann. § 67-5-1501 and Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization. Tennessee Code Annotated § 67-5-1501(c) provides that an appeal **“must be filed within thirty (30) days from the date the initial decision is sent.”** Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization provides that the appeal be filed with the Executive Secretary of the State Board and that the appeal **“identify the allegedly erroneous finding(s) of fact and/or conclusion(s) of law in the initial order”**; or
2. A party may petition for reconsideration of this decision and order pursuant to Tenn. Code Ann. § 4-5-317 within fifteen (15) days of the entry of the order. The petition for reconsideration must state the specific grounds upon which relief is requested. The filing of a petition for reconsideration is not a prerequisite for seeking administrative or judicial review.

This order does not become final until an official certificate is issued by the Assessment Appeals Commission. Official certificates are normally issued seventy-five (75) days after the entry of the initial decision and order if no party has appealed.

ENTERED this 22nd day of January, 2007.



PETE LOESCH
ADMINISTRATIVE JUDGE
TENNESSEE DEPARTMENT OF STATE
ADMINISTRATIVE PROCEDURES DIVISION

cc: Richard E. Charlton, III, Esq.
Tameaka Stanton-Riley, Appeals Manager, Shelby County Assessor's Office